

# EXHIBIT

40

FILED IN THE  
UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

JohnAaron Murphy Jones 4641  
Attorney at Law  
1170 N. King Street  
Honolulu, Hawaii 96817  
Telephone: 808 926-9078

SEP 16 1992

at 10 o'clock and 35 min. P.M.  
WALTER A.Y.H. CHINN, CLERK

Attorney for Plaintiff  
Nancy Miracle, aka  
Nancy Maniscalco Green

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII

NANCY MIRACLE,  
aka, NANCY MANISCALCO GREEN,  
  
Plaintiff,

vs.

ANNA STRASBERG, as Administratrix,  
c.t.a. of the Last Will and  
Testament of MARILYN MONROE.  
  
Defendant.

CIVIL NO. **92 00605 ACK**  
(Non Motor Vehicle Tort)

COMPLAINT SEEKING SHARE OF  
PRETERMITTED HEIR; EXHIBITS  
A AND B; DEMAND FOR JURY  
TRIAL; SUMMONS

COMPLAINT SEEKING SHARE  
OF PRETERMITTED HEIR

The Plaintiff, NANCY MIRACLE, aka NANCY MANISCALCO GREEN,  
through her undersigned counsel, avers and alleges as follows:

1. She is a natural person who at all times material  
herein was a resident and domiciled in the City and County of  
Honolulu, State of Hawaii.

2. The defendant is the Administratrix of the Last Will  
and Testament of Marilyn Monroe, aka Nancy Cusumano, and is  
domiciled in New York.

3. Jurisdiction is based on diversity of citizenship under 28 U.S.C. section 1332(c)(2).

4. The Will of Marilyn Monroe, aka Nancy Cusumano was probated in the Surrogate's Court held in and for the County of New York in 1962.

5. The plaintiff, Nancy Miracle, aka Nancy Maniscalco Green, is the daughter of Marilyn Monroe, aka Nancy Cusumano, (deceased) and was raised from birth, until her death, by Jennie Cusumano Maniscalco, the older blood sister of Marilyn Monroe, aka Nancy Cusumano. Plaintiff is interested in decedent's will and estate.

6. In 1962, an order of the Surrogate's Court for the County of New York was made and entered admitting to probate a certain instrument in writting purporting to be the last will and testament of Marilyn Monroe, aka Nancy Cusumano. That on said date this court made an order appointing Anna Strasberg, administratrix, of said will. That Anna Strasburg duly qualified as executrix and is now the acting administratrix of said will.

7. Since the date of the order aforesaid admitting said instrument to probate, plaintiff has discovered by evidence to plaintiff therefore unkown, and which evidence plaintiff, in the exercise of due diligence, could not have discovered prior to the date of said order and only recently discovered; that plaintiff Nancy Miracle, aka Nancy Maniscalco Green, is the sole natural born child of Marilyn Monroe, aka Nancy Cusumano.

8. Plaintiff Nancy Miracle, aka Nancy Maniscalco Green, was born on September 14, 1946 at Wykoff Heights Hospital in Ridgewood Brooklyn. The hospital birth certificate, attached hereto as exhibit A, list Jennie Cusumano Maniscalco as Plaintiff's mother. Jennie Cusumano Maniscalco was the blood older sister of Marilyn Monroe, aka Nancy Cusumano, who was not married at the time of plaintiff's birth. Based on recently discovered evidence, Marilyn Monroe, aka Nancy Cusumano, gave her only child (plaintiff) to her older sister, who raised plaintiff as her own daughter until her death. Also, based on newly discovered evidence, the birth certificate of plaintiff has the right and left footprints of plaintiff on it and the fingerprints of Marilyn Monroe, aka Nancy Cusumano, on it appearing under Mother's left and right thumbprint.

(see next two pages attached hereto as exhibit A and footprints and fingerprints of plaintiff- exhibit B).

9. Decedent's will made no provision for plaintiff, who is entitled to the same share of decedent's estate as if decedent had died intestate.

10. That plaintiff, being the sole blood daughter of Marilyn Monroe, aka Nancy Cusumano, (deceased) is entitled to a 50% fractional share of said decedent's estate as a pretermitted heir.

Wherefore, plaintiff prays that defendant, the

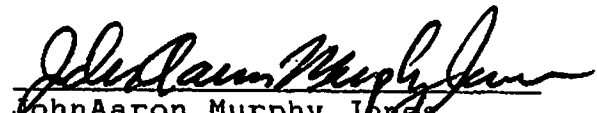
administratrix of the Last Will and Testament of the Estate of Marilyn Monroe, be ordered to:

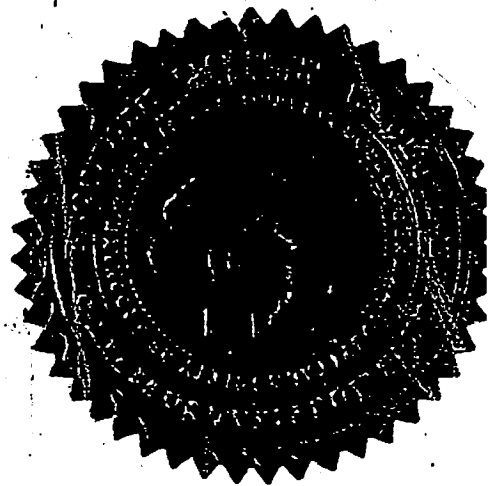
a) Distribute and pay to plaintiff, her 50% pretermitted heir share of said estate which is an amount which plaintiff's request leave to amend this complaint to show at trial but not less than five million dollars.

b) Costs of bringing this suit, including a reasonable attorney's fee, deposition expenses and witness costs; and

c) Such other relief as the court deems just.

Dated: Honolulu, Hawaii, 9/16/92

  
John Aaron Murphy Jones  
Attorney for Plaintiff



In Witness Whereof the said Hospital has  
 caused this Certificate to be signed by its duly  
 authorized officer and its corporate seal to  
 be hereunto affixed.  
 President  
 Secretary  
 Treasurer  
 Attending Physician  
 Superintendent

This Certifies that  
 was born to Mr and Mrs. Joseph [unclear]  
 in this Hospital at 3:16 p.m. [unclear]  
 the 14th day of September, A.D. 1946



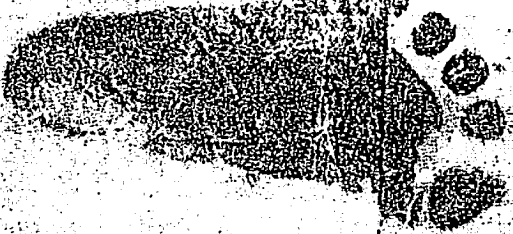
Mayckoff Jewish Hospital  
 of Brooklyn, N.Y.

EXH A



Mother's left thumbprint

Baby's left footprint



This Certificate of Birth should be

Birthplace Belgium  
Mother's maiden name Graves  
Birthplace Belgium  
Residence at time child was born Belgium  
Sex of child Female Weight 10

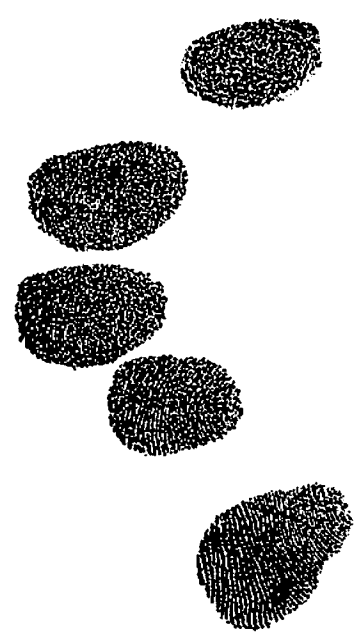
Signature [Signature]  
Date 28 1917  
Place Belgium  
Age 19

Official registration

Mother's right thumbprint



putting my footprint + fingerprints  
herewith.



Subscribed and sworn to before me  
this 13<sup>th</sup> day of August, 1992.

Mindy Hatch  
Notary Public, State of Hawaii  
My commission expires: 6/1/96

Nancy Miracle  
Nancy Miracle  
(Maniscalco, Greene)



JohnAaron Murphy Jones 4641  
Attorney at Law  
1170 N. King Street  
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Telephone: 808 926-9078

Attorney for Plaintiff  
Nancy Miracle, aka  
Nancy Maniscalco Green

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAII


NANCY MIRACLE,	)	CIVIL NO.
aka, NANCY MANISCALCO GREEN,	)	(Non Motor Vehicle Tort)
	)	
Plaintiff,	)	DEMAND FOR JURY TRIAL
	)	
vs.	)	
	)	
ANNA STRASBERG, as Administratrix,	)	
c.t.a. of the Last Will and	)	
Testament of MARILYN MONROE.	)	
	)	
Defendant.	)	
	)	
	)	

DEMAND FOR JURY TRIAL

TO: ANNA STRASBERG, as Administratrix,  
c.t.a. of the Last Will and Testament  
of MARILYN MONROE  
600 Third Avenue  
New York, New York 10016

Please Take Notice that plaintiff demands trial by jury in  
this action.

Dated: Honolulu, Hawaii,

9/15/92  
  
JohnAaron Murphy Jones  
Attorney for Plaintiff

**To all to whom these presents shall come. Greeting:**

By virtue of the authority vested in me by the Archivist of the United States, I certify on his behalf, under the seal of the National Archives and Records Administration, that the attached reproduction(s) is (are) a true and correct copy of documents in his custody.



Signature <i>Patricia S. Bailey</i>	
NAME <b>PATRICIA S. BAILEY</b>	DATE February 6, 2008
TITLE <b>Acting Director, Records Center Operations</b>	
NAME AND ADDRESS OF DEPOSITORY <b>Office of Regional Records Services Pacific Region (San Francisco) 1000 Commodore Drive San Bruno, CA 94066-2350</b>	

\*U.S. GPO 2-334-122/79063

NA FORM 13040 (10-86)

Defendant.

**COMPLAINT SEEKING SHARE  
OF PRETERMITTED HEIR**

The Plaintiff, **NANCY MIRACLE**, aka **NANCY MANISCALCO GREEN**, through her undersigned counsel, avers and alleges as follows:

1. She is a natural person who at all times material herein was a resident and domiciled in the City and County of Honolulu, State of Hawaii.

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